

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY

3 CIVIL ACTION NUMBER:

4 IN RE: VALSARTAN PRODUCTS
5 LIABILITY LITIGATION

19-md-02875

6 TELEPHONIC STATUS
7 CONFERENCE

8 Mitchell H. Cohen Building & U.S. Courthouse
9 4th & Cooper Streets
10 Camden, New Jersey 08101
11 June 29, 2022
12 Commencing at 10:02 a.m.

13 B E F O R E:

THE HONORABLE ROBERT B. KUGLER
UNITED STATES DISTRICT JUDGE

14 THOMAS I. VANASKIE (RET.)
15 SPECIAL MASTER

16 A P P E A R A N C E S:

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Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription.

A P P E A R A N C E S (Continued) :

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ALSO PRESENT:

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Judicial Law Clerk to The Honorable Robert B. Kugler

LARRY MACSTRAVIC, Courtroom Deputy

ALICIA NAVARRETE, Paralegal
Parafinczuk Wolf, P.A.

1 (PROCEEDINGS held telephonically before The Honorable
2 ROBERT B. KUGLER and SPECIAL MASTER THOMAS I. VANASKIE at
3 10:02 a.m.)

4 SPECIAL MASTER VANASKIE: We'll get started now.
5 Again we'll follow our usual protocols: Please mute your
6 speaker on the device you're using to connect to this
7 conference unless you're speaking, and identify yourself when
8 you speak for Ann Marie.

9 And it's a fairly short agenda for today, so we will
10 get started.

11 Who will be speaking to the agenda items on behalf of
12 the plaintiffs?

13 MR. SLATER: Good morning, Your Honor, Adam Slater.
14 Myself and potentially some other people, depending on where
15 the discussion goes.

16 SPECIAL MASTER VANASKIE: Okay. Very well,
17 Mr. Slater. Thank you.

18 And who will be the principal spokesperson for the
19 defense?

20 MS. LOCKARD: Your Honor, it's Victoria Lockard from
21 Greenberg Traurig on behalf of Teva. I will be handling any
22 questions about the motion to seal, I believe that Gavin will
23 be handling any questions about the discovery issue, and then
24 Steve Harkins from our office at Greenberg Traurig will be
25 addressing the portion with respect to deficiencies later

1 before Judge Kugler.

2 SPECIAL MASTER VANASKIE: Very well.

3 MR. BERNARDO: Judge Vanaskie, this is Rich Bernardo
4 from Skadden. I have not had the pleasure of appearing before
5 you before.

6 I'm responsible for the discovery for ZHP. I just
7 wanted to introduce myself. And as you just heard, I'll cover
8 that issue.

9 SPECIAL MASTER VANASKIE: Right. Thank you very
10 much, Mr. Bernardo.

11 Mr. Bernardo, do I have it correct?

12 MR. BERNARDO: Yes, you do. Thank you.

13 SPECIAL MASTER VANASKIE: Okay. Let's first talk
14 them about the losartan/irbesartan discovery.

15 It seems to me that there's really not a disagreement
16 here that there should be a meet and confer before the matter
17 is presented by way of one of these conference calls.

18 Do you agree, Mr. Slater?

19 (Announcement of call recording.)

20 MR. SLATER: Hi, Judge.

21 Sorry. I hope everyone else heard that too.

22 SPECIAL MASTER VANASKIE: Yeah. That's the first
23 time I've heard that.

24 MR. SLATER: I've never heard that either.

25 Judge, I think that the parties agree that a meet and

1 confer is appropriate. I think that we diverge pretty hard on
2 the plan going forward. At least we're not getting any sense
3 that the defense has any willingness to actually start
4 producing this discovery, unless I'm misreading or
5 misunderstanding.

6 And just so Your Honor understands, Judge Schneider
7 followed an extensive process to determine what would be
8 ordered in the first round of discovery on valsartan, which he
9 referred to as core discovery, and had case management orders
10 entered and a lot of discussion at some hearings. And he then
11 ordered, obviously, some requests for production to be
12 responded to.

13 All we're asking for in the first instance is for the
14 same areas of core discovery to be produced regarding losartan
15 and irbesartan, which everybody understood at the time. The
16 purpose of that process was to lay the groundwork not only for
17 valsartan but so that we wouldn't have to reinvent the wheel
18 with irbesartan and losartan.

19 The other area that we're focused on in the near term
20 is the information we need in order to approach these
21 mediations with some knowledge as to the amount of losartan
22 that was sold, the different levels of contamination that
23 we're seeing, for how long it was on the market, et cetera, so
24 that we can make reasonable demands and have reasonable
25 discussions with the defendants, who have all this

1 information.

2 That's the starting point. That's not the limit on
3 what we want, but in order to be able to proceed now into this
4 mediation phase that Judge Kugler has ordered, it's not
5 reasonable for us to do so without the information. And
6 again, this part of the case has never moved forward, so we
7 don't really understand where the burden is when the defense
8 has always known they're going to have to produce this
9 material.

10 MR. BERNARDO: Your Honor --

11 SPECIAL MASTER VANASKIE: Go ahead.

12 MR. BERNARDO: I'm sorry.

13 If I may, Your Honor, this is Rich Bernardo. And
14 perhaps there is a little misunderstanding or misreading.

15 We got plaintiffs' letter last week. And no one's
16 saying that the defendants aren't willing to produce similar
17 core discovery. Rather, what we're saying is that, as
18 Mr. Slater pointed out, there were a number of discussions and
19 refinements to that core discovery that resulted in some
20 discussion of orders after the initial order. We just want to
21 talk through those issues so we're all on the same page so we
22 have the right format, so we have the right timing, so we have
23 the right scope.

24 My understanding is there are defendants who did not
25 participate in that initial core discovery. We've got a meet

1 and confer scheduled for Friday, so we'll talk through those
2 issues. And if there's any, you know, dispute, we can raise
3 them with Your Honor. But I don't think there's a fundamental
4 dispute here. I think we're just trying to iron out any loose
5 ends in areas and make sure we're all on the same page.

6 SPECIAL MASTER VANASKIE: All right. Mr. Slater, you
7 have a meet and confer this Friday on this?

8 MR. SLATER: Yes.

9 SPECIAL MASTER VANASKIE: All right.

10 MR. SLATER: We do.

11 SPECIAL MASTER VANASKIE: All right. So please
12 proceed with the meet and confer. And if you're able to reach
13 agreement on all issues, great. If you're not able to reach
14 agreement on all issues, I think it would be appropriate to
15 raise it at the next discovery conference.

16 I looked at my schedule. I don't think we have one
17 on the calendar just yet, but the appropriate time I think
18 would be -- appropriate day would be July 13th, two weeks from
19 today.

20 Does that sound appropriate to you, Mr. Slater?

21 MR. SLATER: Schedule-wise, it does. I'm -- yes. I
22 may not be able to participate, but I'm certainly not going to
23 hold up the hearing for myself. I have a deposition that day.

24 SPECIAL MASTER VANASKIE: Okay. I'll call upon you,
25 Mr. Bernardo.

1 Does that sound like an appropriate time frame?

2 MR. BERNARDO: That does sound like an appropriate
3 time frame, Your Honor. And I understand that there's a
4 procedure for any issues or disputes, and we will certainly
5 abide by that procedure. Thank you.

6 SPECIAL MASTER VANASKIE: Yes. Nothing --

7 THE LAW CLERK: Excuse me.

8 SPECIAL MASTER VANASKIE: I'm sorry. I was speaking
9 over people. That was my fault, Ann Marie.

10 THE LAW CLERK: No, Judge. This is Loretta. Excuse
11 me.

12 SPECIAL MASTER VANASKIE: Yes.

13 THE LAW CLERK: We in chambers do have July 13th
14 scheduled at 4:00.

15 SPECIAL MASTER VANASKIE: Okay.

16 THE LAW CLERK: I think we -- you, Larry and I -- all
17 agreed to some of the next months' meeting dates, and I'll
18 resend what that schedule is.

19 We just haven't sent invitations. I think Larry does
20 that closer to the biweekly.

21 SPECIAL MASTER VANASKIE: Thank you for that,
22 Loretta. Yes. I just looked at what's on the docket, and we
23 don't have anything -- any text order right now for the 13th.
24 But thanks for refreshing my recollection on what I've already
25 agreed to.

1 So the next conference will be July 13th at 4:00 p.m.
2 I was starting to say, to indicate that it will probably make
3 everybody happy if you get it all resolved and we don't have
4 to have that conference. But if we need so, we need to have
5 the conference, we have the time set aside for it.

6 All right. So I don't think there's anything else to
7 discuss on the discovery with respect to losartan and
8 irbesartan.

9 The next matter I had, and I wanted to verify or find
10 out whether this is a matter that I should be handling, and
11 that is the motion to seal parts of the briefing on class
12 certification.

13 It seems to me there's agreement with respect to the
14 timing for the submission of such motion or motions.

15 But where does that stand? And who will be
16 addressing this issue for the plaintiffs?

17 MR. SLATER: Your Honor, I think if Layne is on,
18 Layne Hilton would probably be addressing this.

19 MR. STANOCH: Your Honor, this is actually -- Your
20 Honor, this is David Stanoch. Ms. Hilton is delayed at an
21 airport and asked me to address this request.

22 And Your Honor is correct, the defendants have
23 approached us for an extension of time to address sealing
24 and -- as set forth in our letter. While of course we wish
25 things would happen sooner rather than later, given the

1 original motion was filed last year, we don't oppose their
2 request.

3 SPECIAL MASTER VANASKIE: All right. And who is
4 addressing this matter for the defense?

5 MS. LOCKARD: Good morning, Your Honor. It's
6 Victoria Lockard from Greenberg Traurig. I'm happy to address
7 any concerns or questions.

8 You know, we weren't quite sure if this would be
9 something Your Honor would take up or reserve for Judge
10 Kugler. But just given the sheer volume of the materials
11 involved, and, you know, we're coming up on a federal holiday
12 weekend, you know, we thought it would be beneficial to have
13 some additional time for all parties involved, and plaintiffs
14 agreed with that. So we've asked for a modest extension on
15 the time to meet and confer and then a 30-day extension for
16 the ultimate filing of the motion.

17 SPECIAL MASTER VANASKIE: And you did offer to submit
18 a proposed order, as I recall?

19 MS. LOCKARD: Yes. We're happy to do that.

20 SPECIAL MASTER VANASKIE: All right. Well, I'd ask
21 you to submit the proposed order, and I will confer with Judge
22 Kugler as to whether that order should be -- could be entered
23 by me. If it can be, it will be. If not, then it will be an
24 issue you'll have to take up with Judge Kugler. All right?

25 MS. LOCKARD: Understood. Thank you, Judge.

1 SPECIAL MASTER VANASKIE: All right. Is there
2 anything else we need to discuss today before we get Judge
3 Kugler on the line?

4 MS. LOCKARD: Nothing from defendants, Your Honor.

5 MR. SLATER: I don't think so.

6 SPECIAL MASTER VANASKIE: All right. I'm going to
7 drop off the call then, and we'll conference in Judge Kugler.
8 Thank you.

9 (Pause in proceedings.)

10 THE COURT: Good morning, it's Judge Kugler.

11 RESPONSE: Good morning, Your Honor.

12 THE LAW CLERK: Good morning, Judge. It's Loretta.

13 I just wanted to let you know that for reasons we don't
14 understand, this call has been audio recorded. I want to make
15 sure you know that.

16 THE COURT: I guess I'd better be careful what I say,
17 huh?

18 THE LAW CLERK: It was wasn't a warning, just notice.

19 THE COURT: Okay. All right. Well, there's not much
20 for me to do.

21 There's this question about extension of time to move
22 to seal. That's okay. Send me that order, and I'll enter
23 that order.

24 According to the defendants' agenda, there are orders
25 to show cause. There are -- four apparently have been

1 resolved. The Wayne Grubb, Eric Thompson, Mary Richards and
2 Tommy Benton cases can all be -- the orders to show cause can
3 be dismissed.

4 They've also asked the Gail Callahan, Margaret
5 Tolley, Katherine Peyton, and Michael Shemes, S-H-E-M-E-S, be
6 continued to the next one, because apparently they're trying
7 to work that out.

8 And that leaves four: Deborah Harris, Ulysses Payne,
9 Annie Pace and Donna King.

10 Any updated information on those?

11 MR. HARKINS: Good morning, Your Honor. This is
12 Steve Harkins with Greenberg Traurig for the Teva defendants
13 and the joint defense group. I have an update to that list.

14 The Ulysses Payne case, the parties are working
15 towards a resolution, so we would ask that that matter also be
16 continue with a one-month extension to the next case
17 management conference.

18 THE COURT: Anybody on the plaintiffs' side speaking
19 on behalf of Deborah Harris?

20 MR. HAMMERS: Yes, Your Honor. This is Rob Hammers,
21 plaintiffs' attorney for Deborah Harris, which is Donald
22 Harris -- the decedent user.

23 We were able to obtain the information from the
24 pharmacy of who the manufacturer is, but the NDC code has not
25 been provided, and the manufacturer is not a defendant in the

1 litigation. So while we do not have a definitive NDC code to
2 exhaust the likelihood that this could even be a case in this
3 litigation, our belief will be that ultimately that answer
4 will be no.

5 So we wanted to make that report. And obviously,
6 we'll take more time to try to get the NDC code so we have a
7 100 percent answer. But if the case should be dismissed, we
8 will make sure our client is aware that that's the result.

9 THE COURT: I think I will dismiss it. You know, you
10 have a year or so to move to reopen if you find new evidence.
11 But it sounds to me like you're not going to be able to find
12 the evidence anyway.

13 MR. HAMMERS: I agree. But, you know, you don't just
14 say, please dismiss my case.

15 THE COURT: No, no. I get it. I get it. I get it.
16 I get it.

17 So I will dismiss the case, and you can go from
18 there.

19 Anybody speaking on behalf of Annie Pace, P-A-C-E?

20 MR. BROOKS: Gerald Brooks on behalf of Annie Pace.
21 The client has agreed to a dismissal.

22 THE COURT: Okay. That will be dismissed. Thank
23 you.

24 Donna King, K-I-N-G, anybody speaking on behalf of
25 Donna King?

1 MS. NAVARRETE: Good morning, this is Alicia from
2 Parafinczuk Wolf law firm.

3 We just received an authorization to request records
4 from the pharmacy from the family after trying for so long, so
5 can we get 30 days to see if hopefully we get pharmacy records
6 on that?

7 THE COURT: Mr. Harkins, what do you say?

8 MR. HARKINS: Yes, Your Honor. I don't believe we've
9 had an update from that, but we can agree to a 30-day
10 extension subject to receiving those pharmacy records.

11 MS. NAVARRETE: Thank you very much.

12 THE COURT: We'll carry that to the next return date.
13 All right. That takes care of the orders to show
14 cause.

15 Now, there are 11 cases that the defendant would like
16 to list for an order to show cause.

17 Mr. Harkins, any update on those?

18 MR. HARKINS: One update, Your Honor. Case number 6
19 on our list, Estate of Christopher Gallagher vs. Hetero Labs,
20 we can remove that. And we would request orders to show cause
21 returnable at the next case management conference in the
22 remaining ten cases on the list.

23 THE COURT: Any plaintiffs' counsel want to speak
24 about the remaining ten cases?

25 We'll start with the Estate of Leona Branch, anybody

1 want to speak on that? That's the Levin firm.

2 MR. NIGH: No, Your Honor, we don't have any update
3 on that one at this time.

4 THE COURT: That will be listed for an order to show
5 cause.

6 Vincent Anderson, again the Levin Firm.

7 MR. NIGH: Again, we don't have any update on getting
8 that one back either.

9 THE COURT: List that one for an order to show cause.

10 Richard Vindigni, V-I-N-D-I-G-N-I, the firm of Robert
11 Julian, anybody want to speak about that?

12 MR. JULIAN: Yes, Judge, Robert Julian for the
13 plaintiff.

14 We are working -- our PFS is largely deficient. We
15 understand that. We're working to get the records. I have --
16 should have reached out to defense counsel and have not, and
17 for that I apologize.

18 I would just ask that we have 30 days before we are
19 placed into the show cause category.

20 THE COURT: Well, I'm going to list it for an order
21 to show cause. That will give you 30 days right there. And
22 then you will have to work with defense counsel, Mr. Harkins
23 or whomever, and he can always give you more time if they
24 want. Okay?

25 MR. JULIAN: All right. Thank you.

1 THE COURT: Sheldon Walker, the Levin firm again.

2 Nothing?

3 Order to show cause --

4 MR. NIGH: So we don't have any update on getting
5 that one back either, Your Honor.

6 THE COURT: Elie, E-L-I-E, Greene, G-R-E-E-N-E,
7 anybody want to speak about that?

8 MR. BROOKS: Gerald Brooks on behalf of the
9 plaintiff.

10 Mr. Greene has died since the filing of the suit. We
11 are in the process of trying to have a widow appointed as the
12 administrator of the estate so that we can get the necessary
13 documentation to meet the requirements, Your Honor.

14 We just ask that you give us an additional 30 days
15 before transferring those to the show cause list.

16 THE COURT: All right. Let's carry this another 30
17 days before we list it for order to show cause so that counsel
18 can get an administrator appointed, and we'll go from there.

19 Majorie Smith as Administrator of the Estate of
20 Erskine Smith, anybody speaking on behalf of that?

21 MR. BROOKS: Gerald Brooks again, Your Honor.

22 Yesterday plaintiff filed the fact sheet,
23 authorizations and records, so I think that this has been
24 remedied.

25 THE COURT: Mr. Harkins, any word on that?

1 MR. HARKINS: Your Honor, we've not had a chance to
2 review that since it was filed, but we can agree to a 30-day
3 extension while we review that material.

4 THE COURT: All right. 30 days until it gets listed
5 again for an order to show cause.

6 William Davis, as Administrator of the Estate of
7 Leila Davis.

8 MR. BROOKS: Gerald Brooks.

9 THE COURT: Mr. Brooks?

10 MR. BROOKS: Gerald Brooks, Your Honor, hopefully for
11 the last time. Same as before, the authorizations, records
12 and fact sheet were filed yesterday.

13 THE COURT: Mr. Harkins?

14 MR. HARKINS: Yes, Your Honor. We'll agree to the
15 same extension for that case as well.

16 THE COURT: All right. Ernestine Williams, the
17 Douglas and London law firm, anybody on for that?

18 That will be listed for an order to show cause.

19 Marilyn White, anybody on that for?

20 MS. NAVARRETE: Yes. This is Alicia again. For
21 Marilyn White, the PFS will be filed, the latest by tomorrow.

22 THE COURT: We'll list that for an order to show
23 cause, and we can always dismiss it before it gets to that
24 stage. Okay?

25 MS. NAVARRETE: Thank you so much.

1 THE COURT: Benita King, the Levin firm.

2 MR. NIGH: Your Honor, Benita King we learned
3 recently passed away, so we've been working with the family to
4 set up an estate and get the PFS returned. That's one that
5 we'll be shortly filing a notice of death.

6 THE COURT: Can we give that another 30 days,
7 Mr. Harkins?

8 MR. HARKINS: Yes, Your Honor. Defendants have no
9 objection to that.

10 THE COURT: There are 14 now listed for -- that still
11 have deficiencies. They're seeking a listing.

12 Any updates on that, Mr. Harkins?

13 MR. HARKINS: Two updates, Your Honor. Number 12,
14 Regina Johnson, and number 13, Judith Ross, have both filed
15 PFSSs, so we can remove those from the list.

16 We would just carry the other 12 cases forward to the
17 next agenda.

18 THE COURT: Does anybody want to be heard on Benny
19 Mathis, M-A-T-H-I-S?

20 How about Estate of John Restivo?

21 Estate of Sebastien Thomas?

22 Estate of Robert Cooper?

23 Joseph Martinez?

24 Francesco Poma, P-O-M-A, individually and on behalf
25 of the Estate of Giusseppe Poma?

1 Kerry Jackson, individually and on behalf of the
2 Estate of Janice Jackson?

3 Paul Kim, K-I-M?

4 Joan Chatham?

5 Raymond Dais, D-A-I-S?

6 Estate of Khristian, with a K, Kay, K-A-Y?

7 And Sandra Russell, R-U-S-S-E-L-L? Anybody on those?

8 Okay. Anything else we need to do, Counsel?

9 MR. SLATER: Nothing I can think of for plaintiffs,
10 Your Honor.

11 THE COURT: Okay. Well, enjoy the month of July, and
12 we'll talk to you then.

13 MR. SLATER: Thank you.

14 THE COURT: Thank you everybody.

15 (Proceedings concluded at 10:27 a.m.)

16
17 - - -

18 I certify that the foregoing is a correct transcript
19 from the record of proceedings in the above-entitled matter.

20
21 /S/ Ann Marie Mitchell, CCR, CRR, RDR, RMR
22 Court Reporter/Transcriber

23 30th day of June, 2022
24 Date
25

/	7	Annie [3] - 13:9, 14:19, 14:20 AnnMarie_Mitchell@ njd.uscourts.gov [1] - 1:22 Announcement [1] - 5:19 answer [2] - 14:3, 14:7 anyway [1] - 14:12 apologize [1] - 16:17 appearing [1] - 5:4 appointed [2] - 17:11, 17:18 approach [1] - 6:20 approached [1] - 10:23 appropriate [7] - 6:1, 8:14, 8:17, 8:18, 8:20, 9:1, 9:2 area [1] - 6:19 areas [2] - 6:14, 8:5 ARPS [1] - 2:16 aside [1] - 10:5 Atlanta [2] - 2:10, 2:22 attorney [1] - 13:21 audio [1] - 12:14 authorization [1] - 15:3 authorizations [2] - 17:23, 18:11 Avenue [1] - 2:17 aware [1] - 14:8	17:8, 17:21, 18:8, 18:9, 18:10 Building [1] - 1:7 burden [1] - 7:7	13:17, 15:21 CONFERENCE [1] - 1:5 connect [1] - 4:6 Connector [1] - 2:10 contamination [1] - 6:22 continue [1] - 13:16 Continued [1] - 2:1 continued [1] - 13:6 Cooper [2] - 1:7, 19:22 core [5] - 6:9, 6:14, 7:17, 7:19, 7:25 correct [3] - 5:11, 10:22, 20:18 counsel [4] - 15:23, 16:16, 16:22, 17:17 Counsel [1] - 20:8 course [1] - 10:24 Court [2] - 1:22, 20:21 COURT [1] - 1:1 Courthouse [1] - 1:7 Courtroom [1] - 3:3 cover [1] - 5:7 CRR [1] - 20:21
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